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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

RJRN HOLDINGS, LLC,

Plaintiff,

vs.

RHONDA DAVIS; BAC HOME LOANS
SERVICING, LP FKA COUNTRYWIDE
HOME LOANS SERVICING, LP;
CARRINGTON MORTGAGE SERVICES;
HACIENDA NORTH HOMEOWNERS'
ASSOCIATION; and DOES 1 through 10,
inclusive; ROE CORPORATIONS 1 through 10,
inclusive,

Defendants.

Case No.: 2:15-CV-1257-JCM-NJK

**DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT**

RH KIDS, LLC,

Third-Party Plaintiff,

vs.

RHONDA DAVIS; BAC HOME LOANS
SERVICING, LP FKA COUNTRYWIDE
HOME LOANS SERVICING, LP;
CARRINGTON MORTGAGE SERVICES;
HACIENDA NORTH HOMEOWNERS'
ASSOCIATION; and DOES 1 through 10,
inclusive; ROE CORPORATIONS 1 through 10,
inclusive,

Third-Party Defendants.

1 require that HOAs yield to the FHA-insured mortgagee with respect to the timing of their recovery
 2 out of foreclosure proceeds. *See* NRS 116.31162. The HOAs will still receive the fees that are
 3 entitled to super-priority status following a sale conducted by the mortgagee. But allowing an HOA
 4 to foreclose on an FHA-insured loan plainly frustrates the objectives of HUD regulations in
 5 restricting foreclosures on at-risk FHA borrowers where specified foreclosure avoidance measures
 6 offer some promise of keeping the borrowers in their homes.

7 Because the HOA Lien Statute “interferes with the federal purpose or operates to impede or
 8 condition the implementation” of the FHA Programs, it is preempted as applied to FHA-insured
 9 mortgages, like Bank of America’s Deed of Trust in this case. *See Rust*, 597 F.2d at 179. Since RH
 10 Kids’ quiet-title action is entirely dependent on the validity of the preempted state law, its quiet title
 11 and declaratory judgment claims fail.

12 V. CONCLUSION

13 For the foregoing reasons, this Court should grant summary judgment in favor of Defendants
 14 on RH Kids’ quiet title and declaratory relief claims, and Bank of America’s claims for quiet title
 15 and declaratory relief.

16 DATE: September 22, 2016.

17 **AKERMAN LLP**

18 /s/ Thera Cooper

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of Akerman LLP, and that on the 22nd day of September, 2016, I caused to be served a true and correct copy of the foregoing **DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**, in the following manner:

(Electronic Service) Pursuant to FRCP 5(b), the above referenced document was electronically filed on the date hereof with the Clerk of the Court for the United States District Court by using the Court's CM/ECF system and served through the Court's Notice of electronic filing system automatically generated to those parties registered on the Court's Master E-Service List.

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